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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,333	12/12/2003	Lance A. Baird	107294	1359

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EXAMINER

WARTALOWICZ, PAUL A

ART UNIT PAPER NUMBER

1754

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/734,333	<b>Applicant(s)</b> BAIRD ET AL.	
	<b>Examiner</b> Paul A. Wartalowicz	<b>Art Unit</b> 1754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 May 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Withdrawn Rejections***

The rejections of claims 4, 9, and 13 under 35 USC 103 in view of Seachrist et al. ('809) are withdrawn rendering the arguments filed May 18, 2006 with respect to the afore mentioned rejection moot.

### ***Response to Arguments***

Applicant's arguments filed May 18, 2006 have been fully considered but they are not persuasive.

Applicant argues that the reference fails to teach that the inlet temperature of a lag catalytic reforming zone is reduced and the inlet temperature of the lead reforming catalyst zone is increased to restore the original predetermined conversion or product octane to thereby significantly reduce the concentration of carbon monoxide in the net hydrogen product stream.

This argument is not persuasive for the following reason: The prior art teaches that the inlet temperature of the inlet of a lag catalytic zone is decreased (sorption zone is a catalytic zone). The invention of claimed does not necessitate that the catalytic zones be reforming zones. The invention as claimed does not necessitate that the inlet temperature of the lead reforming catalyst zone be increased to restore the original predetermined conversion or product octane to thereby significantly reduce the concentration of carbon monoxide in the net hydrogen product stream. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., reduced

temperature of the lag catalytic reforming zone, and increased temperature of the lead reforming catalyst zone) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues that because of the marked difference between the '280 reference and the present invention an artisan would have no incentive to utilize the '280 patent to modify the '809 reference in order to arrive at the process of the present invention.

This argument is not persuasive for the following reason: the '280 reference is used to modify the '809 reference and not the claimed invention. In response to applicant's argument that because of the marked difference between the '280 reference and the present invention an artisan would have no incentive to utilize the '280 patent to modify the '809 reference in order to arrive at the process of the present invention, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). The '280 reference is relied upon to teach that it is obvious to vary the velocity of the hydrocarbon feed in order to control the contact time of the hydrocarbon stream with the catalyst. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re*

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*Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-7,8, and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Seachrist et al. (U.S. 6117809).

Seachrist et al. teach a process for a catalytic reforming process (col. 8, lines 52-55) wherein the first three reformers in the process are maintained at a temperature of 454°C to 538°C and a pressure of from 50 to 200 psi comprising a first catalytic zone (reduction zone, col. 15, lines 57-62; col. 16, lines 3-8) and a second catalytic zone comprising a sorption zone wherein the sorption zone is maintained at a decreased temperature relative to the reduction zone (col. 13, lines 50-53) of 149°C-260°C (col. 13, lines 60-65) such that the inlet for the sorption zone is operated at a temperature of at least 5°C less than the inlet temperature of the reduction zone due to cooling of the reduction outlet gas stream (col. 14, lines 1-5) and such that the inlet for the sorption zone is operated at a temperature of 5°C to about 20°C less than the inlet temperature of the reduction zone due to cooling of the reduction outlet gas stream (sorption zone

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can be run at 66°C-482°C, col. 13, lines 60-65) wherein a hydrogen to hydrocarbon mole ratio is from about 1-5 (C<sub>1</sub>-C<sub>6</sub> hydrocarbons, col. 11, lines 58-62).

As to the limitation wherein the net hydrogen product stream has a reduced concentration of carbon monoxide from about 0.1 to about 20 vppm carbon monoxide, Seachrist et al. teach a process wherein the first three reformers in the process are maintained at a temperature of 454°C to 538°C and a pressure of from 50 to 200 psi comprising a first catalytic zone (reduction zone, col. 15, lines 57-62; col. 16, lines 3-8) and a second catalytic zone comprising a sorption zone wherein the sorption zone is maintained at a decreased temperature relative to the reduction zone (col. 13, lines 50-53) of 149°C-260°C (col. 13, lines 60-65) such that the inlet for the sorption zone is operated at a temperature of at least 5°C less than the inlet temperature of the reduction zone due to cooling of the reduction outlet gas stream (col. 14, lines 1-5) and such that the inlet for the sorption zone is operated at a temperature of 5°C to about 20°C less than the inlet temperature of the reduction zone due to cooling of the reduction outlet gas stream (sorption zone can be run at 66°C-482°C, col. 13, lines 60-65). The process of Seachrist et al. is similar to that of the applicant and inherently teaches the limitation wherein a neat hydrogen product stream contains from about 0.1 to about 20 vppm carbon monoxide.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating

obviousness or nonobviousness.

Claims 4, 9, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seachrist et al. (U.S. 6117809) in view of Anumakonda et al. (U.S. 6221280).

Seachrist et al. teach a process for catalytic reforming as described in claims 1, 7, and 13. Seachrist et al. fail to teach wherein a liquid hourly space velocity from about 0.5 to about 4 hr<sup>-1</sup>.

Anumakonda et al., however, teach a process for the catalytic partial oxidation of hydrocarbons (col. 1, lines 6-10) wherein the liquid hourly space volume of greater than about 0.5 h<sup>-1</sup> is maintained for the hydrocarbon flow (col. 11, lines 13-16) for the purpose of controlling the contact time in which the hydrocarbon is contacted with the catalyst (col. 11, lines 15-20).

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to provide wherein the liquid hourly space volume of

greater than about  $0.5 \text{ h}^{-1}$  is maintained for the hydrocarbon flow (col. 11, lines 13-16) in Seachrist et al. in order to control the contact time in which the hydrocarbon is contacted with the catalyst (col. 11, lines 15-20) as taught by Anumakonda et al.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Wartalowicz whose telephone number is (571) 272-5957. The examiner can normally be reached on 8:30-6 M-Th and 8:30-5 on Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on (571) 272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Paul Wartalowicz  
July 12, 2006



**COLLEEN P. COOKE**  
**PRIMARY EXAMINER**